

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

913H0502

HOUSE BILL NO. 1256

Introduced by: Representative Gillespie and Senator Whiting

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding title insurance
2 reserves.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 58-25 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 A title insurance company shall establish and maintain a statutory premium reserve of not less
7 than an amount computed in accordance with this section. The statutory premium reserve shall
8 consist of the aggregate of the statutory premium reserve on January 1, 2002, and:

9 (1) A sum equal to twenty-four cents for each one thousand dollars of net retained
10 liability under each title insurance policy written for less than five hundred thousand
11 dollars after January 1, 2002; and

12 (2) A sum equal to twelve cents for each one thousand dollars of net retained liability
13 under each title insurance policy written for five hundred thousand dollars or greater
14 after January 1, 2002.

15 Section 2. That chapter 58-25 be amended by adding thereto a NEW SECTION to read as



1 follows:

2 The aggregate of the amounts set aside in this reserve in any calendar year pursuant to
3 section 1 of this Act shall be released from the reserve and restored to net profits over a period
4 of twenty years at an amortization rate not to exceed the following formula: thirty-five percent
5 of the aggregate sum on July first of the year next succeeding the year of addition; fifteen percent
6 of the aggregate sum on July first of each of the succeeding two years; ten percent of the
7 aggregate sum on July first of the next succeeding year; three percent of the aggregate sum on
8 July first of each of the next three succeeding years; two percent of the aggregate sum on July
9 first of each of the next three succeeding years; and one percent of the aggregate sum on July
10 first of each of the next succeeding ten years.

11 Section 3. That chapter 58-25 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 The insurer shall calculate an adjusted statutory or unearned premium reserve as of the year
14 of first application of section 1 of this Act. The adjusted reserve must be calculated as if section
15 1 of this Act had been in effect for each year beginning twenty years before the year of first
16 application of section 1 of this Act. For purposes of this calculation, the balance of the reserve
17 as of that date is considered to be zero. If the adjusted reserve so calculated exceeds the
18 aggregate amount set aside for statutory or unearned premiums in the insurer's most recent
19 annual statement filed with the director, the insurer shall, out of total charges for policies of title
20 insurance, increase its statutory or unearned premium reserve by an amount equal to one-sixth
21 of that excess in each of the succeeding six years, beginning with the calendar year that includes
22 the year of first application of section 1 of this Act until the entire excess has been added.

23 Section 4. That chapter 58-25 be amended by adding thereto a NEW SECTION to read as
24 follows:

1 The aggregate of the amounts set aside in this reserve in any calendar year as adjustments
2 to the insurer's statutory or unearned premium reserve pursuant to section 3 of this Act shall be
3 released from the reserve and restored to net profits, or equity if the additions required by section
4 3 of this Act reduced equity directly, over a period not exceeding ten years pursuant to the
5 following table:

6	Year of Addition	Release
7	Year 1	Equally over ten years
8	Year 2	Equally over nine years
9	Year 3	Equally over eight years
10	Year 4	Equally over seven years
11	Year 5	Equally over six years
12	Year 6	Equally over five years

13 For purposes of this section, year is the calendar year following the year of first application
14 of section 1 of this Act.

15 Section 5. That chapter 58-25 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 A title insurer shall establish and maintain a known claim reserve in an amount estimated to
18 be sufficient to cover all unpaid losses, claims, and allocated loss adjustment expenses arising
19 under title insurance policies, guaranteed certificates of title, guaranteed searches, and
20 guaranteed abstracts of title and all unpaid losses, claims, and allocated loss adjustment expenses
21 for which the title insurer may be liable and for which the title insurer has received notice by or
22 on behalf of the insured, holder of a guarantee or escrow, or security depositor.

23 Section 6. That chapter 58-25 be amended by adding thereto a NEW SECTION to read as
24 follows:

25 A supplemental reserve shall be established consisting of any other reserves necessary, when

1 taken in combination with the reserves required by this Act, to cover the company's liabilities
2 with respect to all losses, claims, and loss adjustment expenses.

3 Section 7. That § 58-26-42 be repealed.

4 ~~58-26-42. In addition to an adequate reserve as to outstanding losses as required under~~
5 ~~§ 58-26-11, a title insurer shall maintain a guaranty fund or unearned premium reserve of not less~~
6 ~~than an amount computed as follows:~~

7 ~~(1) Ten percent of the total amount of the risk premiums written in the calendar year for~~
8 ~~title insurance contracts shall be assigned originally to the reserve.~~

9 ~~(2) During each of the twenty years next following the year in which the title insurance~~
10 ~~contract was issued, the reserve applicable to the contract may be reduced by five~~
11 ~~percent of the original amount of such reserve.~~